



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

EC-G-1998-60

DEC 15 1983

OFFICE OF  
AIR, NOISE, AND RADIATION

SUBJECT: Execution of Confidentiality Agreements under  
Section 114 of the Clean Air Act

FROM: *Sheldon Meyers*  
Joseph A. Cannon, Assistant Administrator  
*for* for Air and Radiation (ANR-443)

TO: Office Directors  
Regional Administrators

The purpose of this memorandum is to review aspects of existing regulations and procedures with respect to agreements relating to confidential treatment of information claimed to be trade secret.

Obtaining the information needed for rulemaking and other activities of this office is essential to carrying out the responsibilities which have been assigned to it. Section 114 provides EPA with authority to obtain the needed information. In the past, we have generally sought to obtain the necessary information by requesting it in a "Section 114" letter or by entering appropriate facilities. We have sought, wherever possible, to obtain responses to such letters and to arrange such entry on a consensual basis, i.e., to avoid the necessity to use the enforcement mechanisms provided by Congress.

For that reason we have generally sought, and will continue to try, to respond favorably to reasonable company requests for clarification or explanation of information requests, for additional time, or for use of some more convenient and equally useful form or manner of response. We have also established, by regulation and by contract provision, reasonable safeguards, deterrents and sanctions against the improper disclosure of information claimed to be trade secret, including the debarment of contractors (whether or not such contractors have been designated EPA representatives) and the constituting of sources as third party beneficiaries of the terms of EPA contract provisions relating to handling of such information, 40 CFR Part 2, 41 CFR 15-1.350-1, 15-1.350-2. These protections and remedies are additional to the protections and remedies afforded by other provisions of law, e.g., common law and State criminal law.

114  
3-1

FEB 25 1998

ECDC